IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. J.A., Appellant.	No. 37851-5-II UNPUBLISHED OPINION

Armstrong, J. — The Clark County Juvenile Court adjudicated J.A.[1] guilty of residential burglary, second degree theft, and minor in possession of alcohol. J.A. appeals, contending that the evidence was insufficient to support those convictions because no witness actually saw him enter the residence in question, and no one saw him in possession of any of the items clearly connected with that residence.[2] We affirm.

FACTS

On April 28, 2008, Joy Hall came home from work to find that her bedroom window was open, and a sliding glass door was unlocked. Her laptop computer, a black travel bag, some of her jewelry, and two bottles of liquor were missing. Hall contacted the police.

Hall's neighbor, Evalyn Morales, told the investigating officer that on the day of the burglary, four boys had loitered on her front lawn for about 15 minutes. She recognized one of them as P.F., the son of another neighbor. Eventually, they walked off toward Hall's house.

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[1] Because this is a case involving a minor, some amount of privacy is appropriate. Accordingly, we use initials instead of the names of the juveniles involved.

[2] A commissioner of this court considered this matter pursuant to RAP 18.14 and referred it to a panel of judges.

Roughly 20 minutes later, the boys again walked across her lawn. One of the boys, not P.F., was carrying a black bag with a long back strap. It looked like "one of those cushion electronic bags." Report of Proceedings (RP) at 16-17, 23. P.F. went into his yard, and the other three continued down the street. The boy carrying the bag was walking very fast, and the others were trying to keep up with him.

P.F. testified that J.A. and another boy went onto Hall's property. They disappeared from his view when they went behind the house. When they came back about 10 minutes later, J.A. was carrying a black computer bag and "two fifths." One was vodka, and the other was "some dark brown alcohol." RP at 29, 32, 36-37. P.F. said he drank from the bottles a couple of hours later. He said he "believe[d]" he remembered that J.A. specifically mentioned taking the alcohol from the house. RP at 32. J.A. did not say anything about the computer, and P.F. did not actually see it, but he assumed that was what was in the bag because it was a computer bag. P.F. also testified that a few minutes after returning from Hall's yard, J.A. told him about a technique that he used to open locked windows by shaking them.

Finally, another acquaintance of J.A.'s testified that J.A. had spoken about having a laptop he needed to get rid of, and about drinking some kahlua and vodka that he had.

ANALYSIS

Evidence is sufficient to support a conviction if, viewed in the light most favorable to the prosecution, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). "A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be

drawn therefrom." *Salinas*, 119 Wn.2d at 201 (citations omitted). Circumstantial and direct evidence are equally reliable. *State v. Delmarter*, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). In determining whether the necessary quantum of proof exists, the reviewing court need not be convinced of the defendant's guilt beyond a reasonable doubt, but only that substantial evidence supports the State's case. *State v. McKeown*, 23 Wn. App. 582, 588, 596 P.2d 1100 (1979).

A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle. RCW 9A.52.025. Circumstantial evidence alone can be sufficient to establish the element of unlawful entry. *State v. J.P.*, 130 Wn. App. 887, 893, 125 P.3d 215 (2005); *State v. Couch*, 44 Wn. App. 26, 720 P.2d 1387 (1986).

Here, the only evidence that J.A. entered Hall's home is circumstantial. P.F. saw him disappear behind the house and emerge with items that matched the description of some of Hall's missing property. In addition, the method J.A. described to P.F. for opening locked windows comports with the circumstances of the entry. There is no direct evidence that J.A. entered the house, but the inference that he did so is entirely rational. *See Couch*, 44 Wn. App. at 27-28, 32 (owners heard someone moving about in tavern, heard trapdoor to basement slam, and shortly afterward saw defendant climbing over a fence next to the tavern). The State met its burden with respect to the element of unlawful entry.

The element of intent may be inferred in light of all the facts and circumstances from conduct that clearly indicates such intent as a matter of logical probability, as long as that conduct is not patently equivocal. *Couch*, 44 Wn. App. at 32. In this case, there was evidence that J.A.

entered the residence surreptitiously, and without permission, and he left the residence with items that did not belong to him. That evidence is adequate to establish intent to commit a crime. There was sufficient evidence to support the conviction of residential burglary.

As to the second charge, theft means to wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services. RCW 9A.56.020. When the value of such property exceeds $250 but not $1,500, the defendant is guilty of theft in the second degree. RCW 9A.56.040.

Certainly, the evidence discussed above is sufficient to show that J.A. wrongfully obtained and exerted unauthorized control over the alcohol and the black bag with the intent to deprive Hall of that property. He argues that it is insufficient to prove that the bag contained a computer or that he stole any jewelry.

Hall's laptop computer was missing. Morales and P.F. testified that none of the other boys were carrying anything. And J.A. told another witness that he had a laptop that he needed to get rid of. That was enough to permit a rational finder of fact to find that J.A. stole Hall's computer.

Hall testified that the value of the travel bag was $25 or $30. She said that she had purchased the laptop for $759 approximately six months before the date of the theft. Her testimony was sufficient to establish that the value of the stolen property was over $250. *See State v. Hermann*, 138 Wn. App. 596, 602, 158 P.3d 96 (2007) (evidence of the price paid for an item is entitled to great weight in determining its value). Assuming, without deciding, that J.A. could not be held accountable for the theft of the jewelry, the evidence was nevertheless sufficient

to support the conviction of second degree theft.

J.A.'s challenge to the possession charge is likewise without merit. Under RCW 66.44.270(2)(a), it is unlawful for any person under the age of 21 to possess or consume alcohol. A person possesses alcohol if he knows of its presence; it is immediately accessible, and he exercises dominion or control over it. *State v. A.T.P-R.*, 132 Wn. App. 181, 185, 130 P.3d 877 (2006). P.F. testified that when J.A. returned from Hall's property, he was carrying a bottle of vodka and another bottle of alcohol. The juvenile court found that to be a fact. That finding is unchallenged, and it is therefore a verity on appeal. *State v. Gentry*, 125 Wn.2d 570, 605, 888 P.2d 1105 (1995); *A.T.P-R.*, 132 Wn. App. at 185. Hall testified that the bottles taken were unopened. One could reasonably infer, therefore, that there were labels clearly identifying the contents. This evidence was sufficient to prove that J.A. exercised dominion and control over two bottles that he knew contained alcohol.

The judgment is affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Armstrong, J.

We concur:

Bridgewater, P.J.

Quinn-Brintnall, J.